

Entry of Amendment

Applicant's amendment filed on July 26, 2011 is acknowledged. Claims 43, 44, 46, 49, 52, 64 and 67-73 are currently pending.

Prior Rejections or Objections

The following comments pertain to the rejections or objections in the most recent Office action mailed on April 24, 2011. Rejections under 35 U.S.C. 103 are withdrawn, however, new grounds of rejection are presented below. Therefore, this Office action is non-final.

Specification

The disclosure is objected to because of the following informalities: on page 11, line 20 and on page 12, lines 2 and 3, a temperature monitoring member (420) is recited, However, this element number does not appear on the drawings. The examiner suggests deleting this element number from the Specification to correct this because "optical imaging apparatus" (434) is clearly defined and shown on corrected Figure 8.

Also on page 12, in line 5, if 440 is an ultrasound emitter, then 434 would not be an "optical imaging apparatus" [sound waves are not the same as optical (electromagnetic) waves].

Also claim 70 recites a "temperature quantification device" which is presented in the Specification but not given an element number, thus not shown in one of the drawings.

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the temperature quantification device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 68 is objected to because of the following informalities: in line 2, "ultrasonic energy" is not consistent with the "optical imaging apparatus" of independent claim 52. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 64 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 64 depends from cancelled claim 65. The examiner suggests claim 64 should depend from claim 52 to correct this.

Allowable Subject Matter

Claims 43, 44, 46, 49, 52, 67 and 69-73 are allowed.

Claim 64 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 68 would be allowable if corrected as detailed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROY GIBSON whose telephone number is (571)272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy D. Gibson/
Primary Examiner
Art Unit 3739

October 24, 2011

Application/Control Number: 10/786,322
Art Unit: 3739

Page 6